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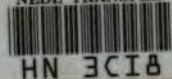
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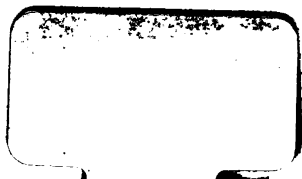
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FRANCIS A. GASKELL

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Proceedings of the SUPERIOR COURT
OF THE STATE OF MASSACHUSETTS
FRANCIS A. GASKELL, Clerk
of the Superior Court, October 1910

BOSTON
THE FORT HILL PRESS, 176 HOLLISTON ST.
1910



Proceedings *of the* SUFFOLK BAR
and SUPERIOR COURT in memory
of FRANCIS A. GASKELL, Justice of
the Superior Court, October 30, 1909

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PROCEEDINGS OF THE SUFFOLK
BAR AND SUPERIOR COURT.
OCTOBER 30, 1909.

The meeting of the members of the Suffolk Bar, called to take action upon the report of a committee appointed to prepare and present resolutions upon the death of the late Francis A. Gaskell, justice of the Superior Court, was held in the Superior Court Equity Room on Saturday, October 30, 1909, at 11 A.M.

The meeting was called to order by Charles P. Greenough, and on his motion Moorfield Storey was chosen chairman of the meeting and Robert S. Gorham secretary.

Upon taking the chair Mr. Storey stated the purpose for which the meeting was called and that it was ready to receive the memorial prepared by the committee.

Mr. Greenough for the committee then stated that it had performed the duty with which it was charged and read the following memorial:

THE MEMORIAL.

The members of the Suffolk Bar desire to place upon record their appreciation of the long judicial service of the late Justice Gaskell upon the bench

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of the Superior Court of the Commonwealth, and to express their admiration for the manner in which such service was rendered by him, their affection for his personal qualities, and their profound grief at the severance of their mutual relations, and have to that end prepared this memorial.

Francis Almon Gaskell, for nearly fifteen years a justice of the Superior Court, was born July 3, 1846, in Mendon, Massachusetts, and died July 16, 1909. He was graduated from Brown University in the class of 1866, studied law at the Harvard Law School and in the office of George F. Verry, of Worcester; was admitted to the bar in 1869, and practiced law with great success in that city, first as a partner of George F. Verry until his death and then with Horace G. Verry for ten years.

He was district attorney for the Middle District from 1887 until his appointment to the bench of the Superior Court in 1895. He fully recognized his duties as a citizen, and served as a member of the Common Council of Worcester, as president and director of the Public Library of that city, as president and director of the People's Savings Bank, and as director of the State Mutual Life Assurance Company, as a trustee of Worcester Academy for thirty years and president of the board at the time of his death. He was also a director of the Worcester Natural History Society, and one of the trustees of Brown University and a member of its board of fellows.

In each of these positions of trust he gave the

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same conscientious attention to his duties and the same patient and thorough investigation of all questions which arose for decision that he exhibited in his practice as a lawyer and as a judge upon the bench.

He was eminently social in his instincts and habits. He had a delightful sense of humor and a cordial and sympathetic manner, and was a welcome member of various social and literary clubs.

As a judge he had all the qualities which deserve and command success. These were so fully recognized by the bar that it was generally believed that his promotion to the Supreme Court of the Commonwealth was only a matter of time, and that he would adorn and strengthen that great court.

There have been few, if any, better *nisi prius* judges on the bench in Massachusetts. To a thorough knowledge of the principles of the law he joined an eager love of the truth and a rare power of grasping at once the important points in a case, and of stating in clear and unmistakable language his decisions on disputed questions of evidence. He had that real dignity which, without apparent effort, inspired the respect of counsel and party and made every one hesitate to take any liberty with him. At the same time, his love of humanity and justice was so inherent in his personality that every litigant felt safe in his hands. He was uniformly patient and courteous during the trial of a cause, both to counsel and witnesses. He made up his mind on all questions with care and deliberation,

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and, when satisfied he was right, was firm in his rulings and willing to take the consequences resulting therefrom. He carefully protected witnesses from improper examination, and was clear and lucid in his charges to the jury.

The people of the Commonwealth were fortunate in retaining his services for so many years, and the members of the bar feel that they have not only lost a judge in whom they had entire confidence, but also a sincere friend, who deserved and enjoyed the respect and affection of every man who practiced in his court.

CHARLES PELHAM GREENOUGH,
CHARLES B. SOUTHARD,
FRANK D. ALLEN,
SAMUEL J. ELDER,
HERBERT PARKER,

Committee.

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REMARKS OF
CHARLES PELHAM GREENOUGH.

I remember, Mr. Chairman, in the memorial of the late Judge Blodgett, this sentence: "He was in every essential a model of what a judge should be."

What qualities do we in our own minds attribute to such a judge? I imagine that each one of us endows his ideal of such a judge with different qualities. For myself, I think of him as a man of middle age, in the prime of life, not so young as to be without sufficient experience in the practice of the law, or to be intimidated by the older members of the bar, nor so old as to have lost his grasp of the principles of the law or his power of quick decision; I think of him as a man of innate dignity, with no affectation of superiority but with whom no lawyer or party would dare to take a liberty; I think of him, also, as a man possessed with an ample knowledge of the law, and a special familiarity with the rules regulating the admission of evidence, of a never-failing patience and courteous manners; as a man with an eager love for the truth, not too quick in making up his mind, but firm in maintaining his decisions when made; of a sympathetic and kindly disposition, and with a keen sense of humor. And when I personalize my ideal, I think of Judge Brigham, Judge Blodgett, or Judge Gaskell.

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There is to me a note of sadness in the thought that the reputation of a judge of a Superior Court rarely extends beyond his own lifetime. A justice of the Supreme Court has the opportunity, by excellence in his written and recorded opinions, of establishing permanent fame for himself. And this can sometimes be done even by a dissenting opinion. Judge Curtis, in the Dred Scott case, by his dissenting opinion made his name known throughout the United States. The justice of a Superior Court has no such opportunity, although his life-work, in my opinion, is of more importance than that of the justice of the higher court, as he is the interpreter of the law to the general public. But when he dies, his name is generally "writ in water."

It is eminently fitting, therefore, that a memorial like this, which shows the estimation in which a judge is held by the bar who practice before him, should be placed on record. And at the proper time I will ask that the memorial be adopted and that it be presented to the Superior Court.

REMARKS OF
CHARLES B. SOUTHARD.

Mr. Chairman and Brethren of the Bar, — Only a few weeks ago Judge Gaskell was looking forward to this October term when he would resume his official duties and meet again his associates of the

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bench and bar. By virtue of an early appointment, he was one of the oldest judges, and for many years had held court in Boston for long and continuous periods, and was therefore in close touch with lawyers practicing in Suffolk County; but before this term was reached he was called to that court of last resort where we must all appear. His record has been completed, the last decree has been entered, and he has taken his place with those who have worked for and loved their fellow-men. Judges are now busily engaged in conducting the trial of cases he might have heard, counsel are preparing causes which would have been on his list, and the work of our professional world progresses without ceasing. There is not an apparent ruffle on the surface caused by the disappearance of one who loomed so large on the legal horizon, and new actors appear on the scene to continue the performance which never ceases. The work must not be stayed. Our dockets are overcrowded, new actions are each day entered, and others are pressed forward for trial as rapidly as the court can hear and dispose of them; but in the rush and roar of battle the beloved leader is not forgotten, though the contest goes on and the relentless command, "Forward, march!" is heard.

To-day we pause from the various activities in which we are engaged, not to direct our momentary attention to the loss of our lamented friend, but that we may, by resolutions presented to and accepted by the court, put into permanent form of

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words some of those thoughts which we have spoken to each other in our private review of a wonderfully full and satisfactory life. He is daily with us, to encourage us to live industrious, cheerful, courageous, and clean lives. With his mental vigor unimpaired, and strengthened by its constant exercise, not alone in intercourse with his associates on the bench and with his brethren at the bar, but also from his purchase and use of the best literature and from his participation in conducting the complicated affairs of college, school, and church, where his large experience, quick apprehension, and enthusiastic interest were needed for the benefit of others, he was called home in the very prime of his excellence. His ready and scholarly ability to make addresses was well known and put into requisition, and he died with enough work of a benevolent character prepared for and accepted by him to stagger even a man of leisure. He only added his labor for others to his regular court work, and took nothing from the time he considered due the Commonwealth and which was faithfully given, well or ill, for many years; and with his contribution of time he also gave money generously and graciously.

On the bench, Judge Gaskell was active, forceful, alert, and thoroughly in earnest; quick to see and act; always courteous, unprejudiced, and eminently fair. By his own manner of conducting cases, he demanded and received the respect to which one holding his honorable position is entitled, and any lack of courtesy to the Court was promptly met

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with dignity, firmness, and the utmost seriousness. It may well be said that a lawyer could not hope to try his case satisfactorily who appeared before Judge Gaskell unprepared and unfamiliar with his case; but a man who showed he had worked and studied and was giving his best efforts, but who, for some reason, became embarrassed or disturbed, found indeed a friendly judge. Fraud and chicanery were quickly unmasked and exposed in his presence, and he was a severe critic of any attempt to abuse the process of the court.

It cannot, however, be too much emphasized in considering the man and the friend, and particular attention is called to the fact, that while Judge Gaskell was most serious concerning all that related to the court, he never for one moment took himself seriously. When away from court, he was humorous, demonstrative, fond of exercise and companionship, eager to enjoy his friends, and so responsive and sympathetic that each of his chosen associates felt him to be warm-hearted, true, and under all circumstances a most loyal friend. It is not often that men of affairs make use of sentiment in speaking of each other, but those who knew Judge Gaskell best were filled with respect and admiration for the learning, ability, industry, and integrity of the judge and with sincere affection for the man.

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REMARKS OF
SAMUEL J. ELDER.

No estimate of Judge Gaskell's character can be complete which does not take into account and seek to measure his wealth of friendliness. It was not confined to any select circle or cultured few. It was not alone for business and social acquaintances or college comrades or professional associates; it was lavished on every one. Class or sect or station drew no lines of demarcation. Standing by his side in the church at Worcester, and seeing the faces of the hundreds who passed to take their last look, the knowledge was brought home again that his friendship was universal.

We are told that "a man that hath friends must show himself friendly." The converse must be equally true. Friendliness begets friendships and retains them. It cannot be the friendliness of policy or design, but must be, as in his case, the outgiving of a genuine human interest in all about him and a sincere desire for their welfare; not only willingness but anxiety to help.

It seems to me that this was the mainspring of his character. He wanted to help. To expend himself in every good cause was a necessity with him. Time and thought and effort could not be husbanded. So that the cause was worthy, and all the more if it was weak, it enlisted him body and soul. His enthusiasm knew no confinement, and his heartiness no limitations, except those of sound

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judgment and good sense. And withal he was tactful; a friendly man is always tactful; he desires friendship for himself and for his cause; he shrinks from causing pain; he desires no triumph over opposition, only the triumph of disarming it and winning it over to his side.

It was this quality which made it possible for him to accomplish so much. The long list of his public offices and public services is set out in your memorial. I am not forgetting his great ability, or the mental equipment which facilitated his work. What he knew — and he had read and thought deeply — what he knew, he knew at once. He could place his hand upon it for service on the instant. He was so well grounded in the law and his sense of justice was so acute, he took the right direction instinctively. But I am nevertheless insisting that his understanding of men and his sympathetic friendliness and his tactfulness aided him immeasurably in his various and exacting services. As a lawyer, no belligerency or spitefulness or ambition of vainglorious retort and repartee clouded his vision. He was not gentle in dealing with recalcitrant witnesses or unworthy opposition, but he was a gentleman in court as well as out. And his good nature kept the court a forum, and did not permit it to become a twenty-foot ring.

As a judge, the same qualities forwarded the causes before him. Time was not lost in encounters between counsel or in the browbeating of witnesses, or in frivolous objections. He was swift and brief

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of speech, well-nigh peremptory at times, but there was, after all, an instant courtesy and kindness which left no sting behind and made it possible to speed the cause.

As an administrator and man of affairs, this quality showed preëminently. I desire to speak of but one of his public services because it is one not generally known. It was his service to Worcester Academy. Many busy lawyers and burdened judges accept or have financial or educational trusts thrust upon them, and many discharge their duty with care and conscience, but few can be to any institution what Judge Gaskell was to this school. For over thirty years he was a member of its board of trustees; for nearly all that time chairman of the executive committee, and at his death president of the board. He found the institution small and poor. It was, at his death, one of the largest of the great secondary schools of the country, with splendid equipment of buildings and men, — though unfortunately, like all our schools, of insufficient means. How much was due to him, let me recite in the words of its head master:

“ His next great service to the school was in his broad outlook, his wide sympathies, his acquaintance with noble men, his standing in the community and state, all of which united to make him ‘ one of the sources of the school’s inspiration and one of its priceless assets.’ His enthusiasms were so fine, his sympathies were so broad, and his experiences in life were so rich, that the school’s future was en-

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hanced and made more certain by these great qualities of his heart and mind. He was always backing me in every effort made for the development of the school, materially and spiritually. He welcomed every step forward that I took in seeking for the school a larger catholicity, and his help was invaluable. It couldn't have been done without him, and was easily done with him."

We are sometimes told that the law is a narrowing profession, that success in it may mean no more than the success of the clever chess or checker player. How many grains of truth there may be in this, and how much of error, this is not the place to discuss. We stand to-day in the presence of a lawyer who was not narrow, of a judge who was no player of legal chess or checkers. We stand in the presence of a man of the highest ideals, of the broadest public service, of the most sensitive conscientiousness, but, most of all, of a fine, strong, generous, friendly man. I think he would have said, if he could have chosen, as Abou ben Adhem did, "Write me as one who loves his fellow-men."

Our lips bring their tribute of respect and regard, but our hearts bring their tribute of affection. We have lost a friend.

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REMARKS OF
FRANK D. ALLEN.

Mr. Chairman and Brethren of the Bar, — I wish to add just the little flower of friendship to the tributes which you are wreathing around his memory. Except the blessing of God, and that of my own family, I think I owe what little of good there may be in me largely to the friendship and to the conversation and to the life of Francis A. Gaskell. We were friends together in shade and in sunshine. He was so much to me that I cannot trust myself beyond a few words.

When, in young manhood, he came to Worcester and associated himself with Mr. Verry, then perhaps the keenest practitioner at that bar, I became acquainted with him; and we have been fast friends ever since. He entered an office which was a very busy one, and I recall how on my college vacations I used to haunt the court room whenever Verry & Gaskell were trying causes; which they were doing most of the time upon the criminal or civil side of that court. There were fighters in that day at that bar, and he took his place soon among them and held his own. At that time, practice and pleading and evidence were more technical, and it became always necessary for a man to have about him what somebody has called a "mental quorum" if he would grasp and maintain leadership. Judge Gaskell, I think, always possessed that degree of mentality. His business affairs, his professional

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affairs, prospered. The firm was engaged in large transactions. He became acquainted with influential people, who were glad to employ him as well as his senior partner. All this time he had not neglected and did not neglect his duties as a citizen. He was active in his church; and my friend has spoken of his activity in the Worcester Academy, which he saw grow from a little institution of great modesty to the large school which it now is. He was fond of beautiful things and of good literature, read many and good books, and in later life it was his habit to mouse around, whether at home or abroad, in antique bookstores, picking up odd and rare volumes. He always said that that was, perhaps, his great extravagance. His family life was sweet, and while the clouds came, the latter years of his life were blessed with grandchildren of whom he was very fond, and whom he took every occasion to meet and to dandle upon his knees.

He was a great, big, loving, human soul. His love for education led him also to do what he might for the public library, and he was president of its board of directors in 1880. Later on, he became, as the resolutions have suggested, a member of the board of trustees of Brown University, and fellow of the university, which honored him with a degree. All this time he was fitting himself, he was broadening his acquaintance, was strengthening, and naturally he came to be selected as the district attorney for middle Worcester. I saw a good deal of him at

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that time, and I know that he made that office glisten with the genius he put into it. He was a vigorous prosecuting officer, and yet, with all his vigor, and with all his strenuousness, he was a Christian gentleman; and his sympathies, with his discrimination and judgment, enabled him to save many a careless and disappointed criminal to a better life. I doubt if ever, in the district of middle Worcester, there has been a more successful prosecuting attorney than Judge Gaskell.

He naturally was fitting himself for the great position which was the crown of his life service, the position of judge upon the Superior Bench, to which he came in 1895. He brought to that bench, as we know, dignity; he brought to it a knowledge of legal practice — he was a trained technical lawyer; he brought to it good common-sense; he brought to it a love of the people from whom he sprang; and he brought to it, also, a charming comradeship which during all his service never left him. His mien was dignified; he was tender, he was keen and alert; but he was also fair and just. In the work which he did upon the bench, I think none pleased him more than when he was able to disentangle the snarl of ill-temper and of costly litigation. Trained in the principles of the law, nevertheless he sought as a judge, by all constitutional methods, to do justice. His work upon the bench, I think I may say, met the general approval of the bar. His charges were clear and concise in statement. And we loved to have him

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come to Boston, where he was always a welcome friend.

If the work that he has done is but fleeting and transitory, nevertheless he has builded it into the great temple; and therefore, whether he ever, with his predecessors, be "writ down 'Anonymous,'" he has made it easier and safer for those who may follow him.

As a man, what buoyancy he had! How his presence electrified us! How we delighted in his ringing laugh; how fascinating the flashes of his intellect; how tender and sure his sympathy! I think never were those qualities more truly displayed than at that little Maine inn on the night before he died, when he fascinated us all with his brilliant conversation and spoke later so tenderly to me of his brethren upon the bench and at the bar. At this time, there was no premonition of evil; there was no note of warning that in a few hours the thread of life was to be severed. And yet, within that few hours we were accompanying his mortal remains to his home in Worcester.

I may be partial — I hope I am — but I regarded him as the embodiment of those lines which Tennyson sang when he spoke of the strength of virtue and character:

"Glory of warrior, glory of orator, glory of song,
Paid with a voice flying by, to be lost on an endless sea;
Glory of Virtue, to fight, to struggle, to right the wrong, —
Nay, but she aimed not at glory, no lover of glory she, —
Give her the glory of going on, and still to be."

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REMARKS OF
HERBERT PARKER.

Mr. Chairman and Brethren of the Bar, — The occasion forbids any indulgence in the broken expression of a selfish grief. A great sorrow lies heavy on my heart, but if words were competent or adequate to measure a loyal, generous lifetime affection, how by phrase might I hope to adjust myself to the departure of a living, vital presence, to be with me only merged in a happy and lasting joyous memory? Brethren, we speak and think to-day not for ourselves alone, not of that sorrow which oppresses us and cannot be dispelled even by these evidences about us of dignified, impressive recognition of a great public service and of high character which do not die with the breath that bespeaks them; we would, if we have thought of the duty that rests upon us at this moment, give to others something of the impressions and the inspirations that his life gave to us.

A great bench, its repute and its influence, does not spring wholly from the gowns that it wears, nor the technical, forceful phrase of its adjudications. The character, the heart, the mind, and the purpose of him who wears the ermine is as forceful as the authority of the law which he bears. To the end that those who shall come afterwards may know something of the character of the great judges whom we have known, give wide and proud repute to the adjudications of our court, we pause to say,

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in discerning, just phrase, animated no less by friendship than by respect, what quality of man this judge was; that hereafter those who seek to hold our courts to the high prestige, tradition, and history of the past may choose well who shall have authority over them.

Judge Gaskell, above all else in his judicial service, seemed to me to be constantly mindful of his first and greatest duty, which was, in the name and by the authority of the law to see to it that all property or personal rights of the citizen were safeguarded in his hands. Not alone because he knew his fellow-men as few others have, but because he loved and had confidence in them, were his adjudications no less enlightened and just than they were sympathetic and charitable. His experience had been wide; he had come to know not less the higher than the lower and selfish motives of men. He lived in no intellectual illusions, in the retirement of no theories. He knew mankind as it was; but so warm was his heart, so far-reaching his intelligence, so wise his judgment, that no evil coming to his knowledge made him cynic or merciless critic. He saw in his fellow-men that germ of righteousness which, properly nourished and uplifted, could restore. By sentence he never destroyed or made hopeless; even in the phrase of that judgment which bore the stern admonition of the law, there was hope and uplift to him who heard it.

A great, joyous, vital human being he was. In

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him was no guile. His voice — fresh, clear, happy, calling others to his own happiness — was like the breath of the northwest winds that blow over the hills of Worcester that he loved. In his presence was the life, the sunshine of friendship, the enlightenment of learning, the desire to help, the sympathy of one who knew and loved men. In his strength, in the midst of great achievements, when the promise of still further and higher service to his Commonwealth was before him, fearlessly he lay down the arms with which he had ever done brave battle. He passed from the sight of us who knew and loved him, but upon his forehead was the light of the morning of an eternal day.

REMARKS OF
RALPH A. STEWART.

My acquaintance with Judge Gaskell extended over a period of only thirteen years, but during that time it was my fortune to see much of him in court and out, and I early learned to know and appreciate his many sterling qualities of mind and heart.

Though widely known and universally respected and admired by all members of the profession that he honored, there are many of us who like to think of him as essentially the friend of young attorneys; his life was an inspiration to them, and his manner

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was such that newcomers at the bar instinctively turned to him for advice and help.

His broad and varied experience at the bar, on both the civil and criminal side of the court, enabled him to grasp the vital issue in any controversy with surprising quickness and accuracy, but notwithstanding this keenness of perception, he was uniformly patient, considerate and courteous toward honest but inexperienced attorneys. He was always happy when by his efforts he succeeded in securing justice where it might otherwise have failed.

Though not unmindful of the dignity and importance of the high office he so long and ably filled, he never lost interest in his friends at the bar, and never failed to meet them with genial cordiality and absolute sincerity. His likes and dislikes were strong and abiding, but his heart was warm and his views of justice and of human conduct broad and liberal. He entertained a deep-seated hatred of all that was dishonest or unfair in the practice of the profession, and had little patience with a case based upon technicalities. His ideals were high, his judgment sound, and he possessed a thorough knowledge of men and affairs. He had a remarkable power of clear and forceful statement, and was singularly direct in thought and speech. He placed great reliance upon the honesty and fairness of counsel who came before him, and his confidence in them was rarely misplaced. He was insistent upon the truth, and quick to detect an unsound argument, however plausible in form.

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The attorney, litigant, or witness who attempted to deceive Judge Gaskell had immediate occasion to learn that the way of the transgressor is hard. He had great firmness of conviction and unfailing courage. He was a man of all others who might have said with Henley, "And yet the menace of the years finds and shall find me unafraid."

He was a great magistrate, and in the practical administration of justice had few equals. He enjoyed holding jury sittings and was particularly successful in that line of work. He was able to discharge business with marvellous facility and dispatch, and his rulings were quick, clear, and usually correct. He was kind and considerate to his jurors, and they believed in him and worked with him in the effort to secure right results. Strong, dignified, experienced, he dominated the court room and controlled and directed the trial at every stage. Even his mistakes were committed with such absolute fidelity and sincerity that the unsuccessful party scarcely felt the sting of defeat.

In addition to the great service he rendered the profession as an attorney, and later as a judge of the Superior Court, he was a valuable and useful member of a wide community in which he was loved and honored. He retained until his death the keenest interest in his home city, and was regarded as one of its foremost citizens. He was a man of broad culture; his interests were many and varied. He was devoted to his family and friends, and every good cause received his unqualified support.

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Francis A. Gaskell was a loyal friend, a good citizen, an ideal judge; and his memory will be long cherished by the bench and bar of this Commonwealth.

REMARKS OF
ARTHUR D. HILL.

Mr. Chairman and Gentlemen, — I want to add my word of testimony to what Mr. Stewart has just said in relation to the way Judge Gaskell appeared to us younger members of the bar.

It was my good fortune to try the first jury case I ever tried before him, and be beaten, and I shall never forget the courtesy, the kindness, the patience — for I fear I was somewhat pertinacious, for I believed in my case as a young man will — with which he heard me, and with which he dealt out what I have since come to see, though it was hard for me to see it at the time, was justice.

I think what has been said about him as a judge is all true; but there is one thing more that I should like to add to it. He had, above all, that quality of courage, that power of disregarding everything except the ideal end of his decision, that seems to me the greatest quality that a judge can have. You never felt with him that he was swayed by counsel, or that he was influenced by public opinion, or that he was influenced in any way by his

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desire that the case should come out one way or another. He was the embodiment of the law moving towards its end on established principles, without regard to the individual before it as affecting its action. And it was all the more striking that this should be so because you never lost the sense that although as the administrator of the law he moved to his decision unaffected by anything outside, yet there was always, beneath the judicial ermine, the warm, human heart which recognized and felt the sympathy which he was perhaps unable to show.

It was not my good fortune to know him well. I appeared before him in only one or two cases; I was never thrown with him otherwise than professionally; but he has left on me, as I believe he has on every man who ever appeared before him, a sense of the dignity and worth of our profession, a sense of the value and worth of life itself, which would have made it harder for us to fall below the standard which he set.

MR. GREENOUGH: I will now move that the memorial be adopted by this meeting, and that the Attorney-General be requested to present it to the Superior Court, to be placed upon the records of the court.

The memorial was then adopted and the meeting of the Bar adjourned.

The Court was then announced, and nearly all

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the judges of the Superior Court were present, with the Chief Justice presiding.

The Assistant Attorney-General, Mr. FREDERIC B. GREENHALGE, then addressed the Court: May it please the Court, we are met here to-day to do honor to the memory of a distinguished member of this Court, and to speak in no perfunctory or formal phrase the praise which his service upon the bench and his earlier career at the bar alike command.

Appointed to the bench from the county of Worcester, Francis A. Gaskell could not fail to carry with him to his higher and more trying duties the ideals and traditions of the bar of that county, which then carried on its roll the names of Hoar, of Goulding, of Hopkins, and of others hardly less illustrious, or to show in the performance of those duties the qualities which such ideals and traditions should call forth. A lawyer and a student of the law, upon the bench Judge Gaskell was more than a student, and the influence of his personality in the court room over which he presided became, within becoming limits, a part of the administration of justice. In the trial of causes, he had in marked degree the ability to expedite business without compelling litigants to undue haste. Clear and concise of mind, ready of judgment, he was prompt in decision and fearless of possible reviews. He was no formalist or lover of the quiddits or the quilllets of the law, or of that pomp and circumstance which may surround a court, but was accessible to every litigant, and was fair, dignified, and courteous to-

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ward all. He was a just and upright judge, and as such was loved and honored of all men.

To-day a well-deserved tribute of affection, of appreciation, and of respect has been paid by those who knew him; and it is fitting that the expression of such sentiments, so generally manifested, should take permanent and enduring form upon the records of this court. To that end, and to commemorate the fifteen years of his conspicuous service upon this bench, the members of the Suffolk Bar have prepared a memorial which in sincere and appropriate words portrays the merit of that service and the character of him who rendered it. And, representing the Attorney-General of the Commonwealth, it is at once my duty and my privilege to present that memorial to the court.

Mr. Greenhalge then read the memorial as adopted at the meeting of the Bar, and moved that it be entered upon the records of the court.

RESPONSE OF
THE CHIEF JUSTICE.

Judge Gaskell could never have been an old man. There was in his temperament a buoyant cheerfulness and a spirit of youth that would have defied to the end, come when it might, the crotchets and the querulousness of declining years. He was resilient

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with the sunshine, the blue sky, and the springtime he had absorbed in a healthy boyhood. Young in his feelings, he was interested in the young. The beginner at the bar, of earnest and honest purpose, he would aid in his perplexities with helpful suggestion or quiet commendation. On the other hand, the young man setting out with erroneous notions of legal proprieties received from him immediate caution, so tactfully expressed, however, that it would leave a feeling of gratitude. Many a novice in the profession of the law has had its rugged pathway made less difficult by his kindly utterances.

Another manifestation of his interest in youth appears in his devoted service as a trustee of Worcester Academy. It was a prosperous institution before he participated in its management. He might have been content with a perfunctory discharge of the position of trustee; but such was not Judge Gaskell. By example, he inspired zeal in others; he enlisted friends in the school's work; he attended to the construction of its buildings and the scope of its curriculum, and he watched its balance sheets as sedulously as a banker. This instance is detailed because it is illustrative of the man's character. He did with his might what his hands found to do; and he did it with rare executive ability. He had a grasp and mastery of affairs, whether educational, civic, or financial. He could have been a leader in commercial enterprise, had his aspirations diverted him that way. It is fortunate the law made him its captive, for the bench needed

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him more than trade. Our profession looks askance at commercializing tendencies when the sole objective point is the dollar; but the law might profitably follow commerce in the three essentials of directness, brevity, and dispatch. Judge Gaskell possessed these qualities. In the court room he dominated, as a judge should. It was, however, the quiet mastery of unquestioned strength and fitness. His utterances in his judicial work were vigorous, lucid, terse; as to his meaning there was no haze or uncertainty. In the power to present to the jury in simple and incisive words the questions for decision he was unexcelled. He was a rapid worker, and though quick in decision, he was careful, accurate, and fearless. His promptness was a marked characteristic.

I omit tribute to his knowledge of the law, further than to recognize that it was ample, and I dwell upon his administrative excellence, a quality, in my opinion, more infrequent and more valuable in a trial judge than extensive acquaintance with legal principles. While we recall in him the high-minded, broad-minded, and even stern-minded judge, of courage unflinching, outspoken, intolerant of indirection in any form, we do not forget that his greatness of heart and his broad and intense sympathy were never oblivious of the tribulations and infirmities of his fellow-men, nowhere so manifest as in the court.

Judge Gaskell's interests were not circumscribed by the engrossing limitations of the bench. Tastes,

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recreations, social aptitudes, though incidental and apart from the routine of employment, are often significant of the man. For books, pictures, and God's out-of-doors, Judge Gaskell had a suitor's devotion. Those who knew him in the loveliness of his home will retain in remembrance his delight as he called attention to some finished product of the painter's or the engraver's or the printer's art. He possessed a charm of manner which no one could be in his presence and not feel. His college mates recall it in his student days. The clashes and asperities of the bar could not obscure it. Upon the bench it shone. It bound friends to him with hoops of steel. It was more than the florescence of acquaintance with culture, refinement, and social usage; it was the fruitage of a life rooted in rectitude, sincerity, loyalty, generousness, and broad humanity. His life was one of accomplishment; it was a life of benefaction, a life well lived.

Your memorial, sir, will be placed upon the records of the court, and the court will now adjourn.

